

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ATHEAL PIERCE,

Debtor/Appellant,

**DISTRICT COURT
APPELLATE CASE NO.
2:05cv1014-T**

vs.

**CURTIS C. REDING,
Chapter 13 Trustee,**

**CHAPTER 13 CASE NO.
05-31205-DHW-13**

Appellee,

**ON APPEAL FROM THE BANKRUPTCY COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**TRUSTEE'S/APPELLEE'S FILING IN COMPLIANCE WITH
COURT SCHEDULING ORDER**

COMES NOW, the Chapter 13 Trustee for the Middle District of Alabama, Appellee in the above styled action, by and through the undersigned counsel, and in compliance with the Court's scheduling orders dated November 10, 2005 (docket #10 and #11), states as follows:

This Honorable Court ordered during the scheduling conference regarding the Appellee's Motion to Dismiss, that the Appellee's brief in support of the motion to dismiss was due by November 23, 2005 and the Appellant's reply brief would be due by December 5, 2005. The Appellee filed his brief in support on November 21, 2005 (docket #13). The Appellant, Atheal Pierce, has not filed a brief with the Court in opposition to the Motion to Dismiss his appeal pursuant to this Honorable Court's order dated November 10, 2005.

On November 10, 2005, the Court further ordered from the scheduling conference that the Appellant's appeal brief was due on December 9, 2005 and that the Appellee Curtis Reding's brief was due by December 19, 2005. The Appellant Atheal Pierce has not filed his appeal brief on or before December 9, 2005 pursuant to this Honorable Court's order. As the Debtor has not

filed his brief setting out his contentions, the Trustee has no brief with which to either respond or reply to the debtor's contentions.

WHEREFORE, the above premises considered, the Trustee states that the filing of a brief with regard to the debtor's underlying appeal would be moot at this point as there is no brief filed by the Appellant on his issues. Furthermore, the Trustee stands on the Motion to Dismiss previously filed in this action as the appeal was late filed. The Trustee renews the Motion to Dismiss the above styled appeal for the following reasons:

- 1) the appeal filed by the debtor was late filed
- 2) the debtor did not file a brief in opposition to the Trustee's motion to dismiss pursuant to the Order by the Court
- 3) the debtor has not filed his brief in support of his appeal pursuant to the Order of this Court and
- 4) the debtor has failed to prosecute this appeal pursuant to the Federal Rules of Bankruptcy Procedure.

The Trustee/Appellee further moves this Honorable Court for any other and just relief to which this Court may deem appropriate.

Respectfully submitted this 15th day of December, 2005.

CURTIS C. REDING, JR.
Standing Chapter 13 Trustee

BY: /s/ Sabrina L. McKinney
SABRINA L. MCKINNEY (MCK041)
Alabama State Bar #ASB-3162-I71S
Staff Attorney for the Trustee

Office of the Chapter 13 Trustee
166 Commerce Street
P O Box 173
Montgomery, AL 36101-0173
Phone: (334) 262-8371
Fax: (334) 262-8599/264-6127
mckinneys@ch13mdal.com

CERTIFICATE OF SERVICE

I, Sabrina L. McKinney, hereby certify that I have served copies of the foregoing TRUSTEE'S/APPELLEE'S BRIEF IN COMPLIANCE WITH COURT SCHEDULING ORDER on the parties listed below by either electronic mail or by placing same in the United States Mail, postage prepaid and properly addressed, this 15th day of December, 2005.

/s/ Sabrina L. McKinney
Sabrina L. McKinney

Atheal Pierce, Pro Se (via U.S. mail)
112 Norwood Blvd
Montgomery, AL 36117

Charles N. Parnell (via email)
Britt Batson Griggs
Parnell & Crum
PO Box 2189
Montgomery, AL 36102-2189